

## REMARKS

Claims 1-45 have been cancelled. Applicant reserves the right to pursue these claims in the present application or in a related application. Support for new claims 46-92 is found throughout the specification and the claims, including at, for example, page 6, lines 10-16; page 18, lines 4-14; page 23 line 10-page 24, line 18; and in figures 31 and 32.

The foregoing new claims are introduced for the sole purpose of facilitating prosecution, and are not related to reasons of patentability. Applicant thus reserves the right to pursue subject matter no longer or not yet claimed in this or a related application. Furthermore, these claims add no new matter and are fully supported by the specification and claims as originally filed.

Applicant requests reconsideration in view of the following remarks.

### **Petition for Revival of Abandoned Application under 37 CFR 1.137(b)**

Applicant thanks the Examiner for contacting Applicant's representative to notify him that he had not received a response to the 22 March 2004 Office Action, and for forwarding a copy of that action on November 18, 2004. This Response is accompanied by a Petition for Revival of Abandoned Application under 37 CFR 1.137 (b) and a Request for Continuing Examination.

### **35 U.S.C. § 112 1<sup>st</sup> Paragraph**

Claims 1-45 were rejected by the Examiner as lacking enablement for data sets other than those derived by mass spectrometry. Applicant respectfully traverses this rejection because those of ordinary skill in the art would be able to readily adapt the instant specification's teachings with regard to data sets derived from mass spectrometers to data sets derived from other types of test instruments. In the interest of expediting prosecution of the present application, however, the present claims relate to data sets derived from mass spectrometers. Applicant reserves the right to pursue claims relating to the use of other data sets in other applications. Therefore, Applicant requests that this 35 U.S.C. § 112, first paragraph, rejection be withdrawn.

**35 U.S.C. § 112 2<sup>nd</sup> Paragraph**

Claim 25 was rejected under 35 U.S.C. § 112 2<sup>nd</sup> Paragraph as being vague and indefinite for reciting the limitation “the areas around the putative peaks have been removed.” The Examiner stated that “It is unclear what defines the areas around the putative peaks in order for said areas to be removed. Applicants can resolve this issue by particularly pointing out the value/parameters [that] defines that areas around the putative peaks to be removed.” 22 March 2004 Office Action at p. 4. Applicant respectfully traverses this rejection. One of ordinary skill in the art would understand, in light of the application, including, for example, the section at page 18, lines 4-14, what is meant by “the areas around the putative peaks have been removed.” For example, at page 18, lines 7-14, the application states that

For each putative peak, an area equal to twice the width (W) of the Gaussian is removed from the left of the center line, while an area equivalent to 50 daltons is removed from the right of the center line. It has been found that the area representing 50 daltons is adequate to sufficiently remove the effect of salt adducts which may be associated with the actual peak...Although a 50 Dalton buffer has been selected, it will be appreciated that other ranges or methods can be used to reduce or eliminate adduct effects.

Claim 25 is cancelled. Applicant respectfully requests that present claim 69, which includes this term, and dependent claims 70 and 71, thus be allowed.

Claim 45 was rejected under 35 U.S.C. § 112 2<sup>nd</sup> Paragraph as being vague and indefinite for reciting the phrase “sufficiently high.” The Examiner stated that “It is unclear by what the limitation Applicants’ refer to as ‘sufficiently high,’ wherein such language implies a degree/criteria which is considered ‘sufficiently high.’” 22 March 2004 Office Action at p.4. Applicant respectfully traverses this rejection. The term “sufficiently high” as it pertains to claim 45 is understood in light of the entire application, and for example, at page 23 line 10-page 24, line 18, and in figures 31 and 32. In the interest of expediting prosecution, however, claim 45 is cancelled, and new claim 91 refers to the use of calling ratios. Therefore, Applicant respectfully requests that the Examiner withdraw this rejection.

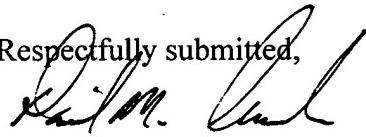
## CONCLUSION

Herein, Applicant has responded to the Examiner's rejections and comments and presented new claims. Applicant respectfully submits that he has also demonstrated the patentability of the invention as claimed. Accordingly, Applicant respectfully submits that all claims are in condition for allowance, and an early notice to such effect is earnestly solicited. Should any issues or questions remain, the Examiner is encouraged to telephone Sheryl Silverstein at (760) 944-1201 so that they may be promptly resolved.

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By:

Respectfully submitted,



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